

The proposed amendment to N.J.A.C. 10A:71-4.2(a) provided for a reduction in the time period that an inmate may administratively appeal an action or decision. As proposed, the time period would be reduced from 180 days to 45 days. In assessing the matter, the Board determined that the time period of 45 days may not provide an inmate sufficient time to consult with a third party, such as an attorney, regarding his or her case, access the resource materials available at an institutional library or to draft a document that adequately presents the basis for the inmate's appeal of the action or decision. Accordingly, in lieu of reducing the time period for the submission of an appeal from 180 days to 45 days, the Board elected upon readoption to increase the reduction of the time period from 45 days to 90 days.

## Federal Standards Statement

The readoption of existing rules with amendment and the adoption of the new rule do not pertain to the implementation of, compliance with or participation in any program established under Federal law or under a State statute that incorporates or refers to Federal law, standards or requirements. An analysis of the readopted rules and adopted new rule pursuant to Executive Order No. 27 (1994), P.L. 1995, c. 65 is, therefore, not required.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 10A:71.

**Full text** of the adopted amendments and new rule follows (addition to proposal indicated in boldface with asterisks **\*thus\***; deletion from proposal indicated in brackets with asterisks \*[thus]\*):

### SUBCHAPTER 1. BOARD ORGANIZATION

#### 10A:71-1.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

...

"Division of Parole" shall mean the division within the State Parole Board responsible for the supervision of adult and juvenile offenders released on parole by the State Parole Board from an adult correctional facility; the supervision of parolees who are serving a mandatory period of parole supervision pursuant to N.J.S.A. 2C:43-7.2(c); the supervision of parolees from other states who have been accepted under the terms of the Adult and Juvenile Compacts for the Supervision of Parolees and Probationers; the supervision and/or monitoring of inmates and parolees assigned to the Electronic Monitoring Program; the supervision of offenders sentenced to community supervision for life; the supervision of offenders sentenced to parole supervision for life; the supervision of juvenile offenders released from an adult correctional facility for the service of a term of post-incarceration; and the supervision of certain Executive Clemency cases.

...

#### 10A:71-1.12 Petition for rulemaking

(a)-(f) (No change.)

(g) Within 60 days of receipt of a rulemaking petition which satisfies the requirements of (b) and (c) above, the Board shall mail to the petitioner, and file with the Office of Administrative Law for publication in the New Jersey Register, a notice of action on the petition. The notice of action shall comply with the requirements of N.J.A.C. 1:30-4.2(d).

(h) (No change.)

#### 10A:71-1.13 Authority to relax a rule

(a) The Board may, in its discretion and if consistent with statutory requirements, relax the application of any rule or certain requirements of a rule in this chapter or N.J.A.C. 10A:72 for good cause.

(b) A request for relaxation of a rule or certain requirements of a rule may be submitted by an operational unit supervisor in writing to the Board for consideration at a formal Board meeting.

(c) Upon the Board determining to approve or disapprove the request for relaxation of a rule or certain requirements of a rule, the Board shall notify the operational unit supervisor in writing of its determination.

(d) The effective date of the relaxation of a rule or certain requirements of a rule shall be the date of approval by the Board.

(e) The relaxation of a rule or certain requirements of a rule shall expire 180 days from the date of approval by the Board.

(f) The relaxation of a rule or certain requirements of a rule may be terminated prior to its expiration date when:

1. The basis for the relaxation of the rule or certain requirements of a rule no longer exists; or
2. The Board no longer approves the relaxation of the rule or certain requirements of a rule.

(g) A relaxation of a rule or certain requirements of a rule may be extended beyond its expiration date when:

1. The operational unit supervisor reapplies for the relaxation of the rule or certain requirements of a rule; and
2. The approval of the Board is given for an extension of the relaxation of the rule or certain requirements of a rule.

(h) An operational unit shall return to compliance with the rule or certain requirements of a rule when relaxation of the aforementioned terminates or expires.

## SUBCHAPTER 2. GENERAL ADMINISTRATIVE PROVISIONS

### 10A:71-2.4 Institutional infractions

(a) (No change.)

(b) No rescission hearing shall be held pursuant to N.J.A.C. 10A:71-5, nor shall any alteration of the parole eligibility date be made pursuant to N.J.A.C. 10A:71-3 on the basis of an institutional infraction that has resulted in a finding of not guilty by the appropriate Department or Commission officials, provided that the finding of not guilty is rendered based on a substantive finding and not due to a procedural deficiency in the disciplinary process.

(c) When the basis for the rescission hearing or the alteration of the parole eligibility date is an institutional infraction that has resulted in a finding of guilt by the appropriate Department or Commission officials, the Board panel or hearing officer reviewing the case shall consider aggravating and mitigating circumstances but shall not consider evidence relating to the inmate's guilt or innocence of the commission of the institutional infraction.

### 10A:71-3.2 Calculation of parole eligibility terms

(a)-(b) (No change.)

(c) The parole eligibility terms for adult inmates shall be determined by the following:

1.-10. (No change.)

11. In the case of an inmate required to serve a future eligibility term pursuant to N.J.A.C. 10A:71-5.5 upon the rescission of a grant of parole, a new book eligibility date shall be established by adding the future eligibility term to the previously established parole date.

(d)-(i) (No change.)

(j) Pursuant to N.J.S.A. 30:4-123.51(k), an inmate sentenced to imprisonment pursuant to paragraph (2), (3) or (4) of subsection (b) of N.J.S.A. 2C:11-3 (murder) shall not be eligible for parole.

(k)-(m) (No change.)

### 10A:71-3.3 Parole eligibility for young adult inmates

(a) Except as provided herein, an inmate sentenced to an indeterminate term of years as a young adult inmate shall be primarily eligible for parole consideration on a date established by a hearing officer or the young adult Board panel pursuant to the following schedule of presumptive primary eligibility dates:

## PRESUMPTIVE PRIMARY ELIGIBILITY DATES (MONTHS)

### LENGTH OF INDETERMINATE TERM

(Years)

Crime Category	0-4	5-9	10-14	15-20
Category A	16	32	40	48
Category B	14	20	28	
Category C	12	14	18	22
Category D	10	10		
Category E	8			

Category A: Any first degree crime, except as provided in Category C.

Category B: Any second degree crime, except as provided in Category C.

Category C: Manufacturing, distributing or dispensing a controlled dangerous substance second degree or possession with intent to manufacture, distribute or dispense a controlled dangerous substance, first or second degree.

Category D: Any third degree crime.

Category E: Any fourth degree crime.

(b)-(k) (No change.)

10A:71-3.11 Factors considered at parole hearings; adult inmates

(a) (No change.)

(b) The hearing officer, Board panel or Board shall consider the following factors and, in addition, may consider any other factors deemed relevant:

1.-21. (No change.)

22. Statement or testimony of any victim or the nearest relative(s) of a murder/manslaughter victim.

23. (No change.)

(c) (No change.)

10A:71-3.15 Initial hearing and case review notice of decision; adult inmates

(a) (No change.)

(b) In the case of an offender serving a term for the crime of murder, aggravated manslaughter, manslaughter, death by vehicular homicide, aggravated assault second degree, disarming a law enforcement officer first degree, kidnapping, aggravated sexual assault, sexual assault, robbery, carjacking, aggravated arson, burglary second degree, extortion, endangering the welfare of a child second degree, booby traps in manufacturing or distribution facilities, strict liability for drug induced deaths, terrorism, producing or possessing chemical weapons, biological agents or nuclear or radiological

devices, racketeering first degree or causing or risking widespread injury or damage second degree, the hearing officer shall refer the case for a hearing before the appropriate Board panel.

(c)-(e) (No change.)

10A:71-3.21 Board panel action; schedule of future parole eligibility dates for adult inmates

(a) (No change.)

(b) Upon determining to deny parole to a young adult inmate, a two-member young adult Board panel shall, based upon the following schedule, establish a future parole eligibility date upon which the inmate shall be primarily eligible for parole.

1. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Categories A of N.J.A.C. 10A:71-3.3 shall serve 24 additional months.

2. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category B of N.J.A.C. 10A:71-3.3 shall serve 16 additional months.

3. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category C of N.J.A.C. 10A:71-3.3 shall serve 12 additional months.

4. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category D of N.J.A.C. 10A:71-3.3 shall serve 10 additional months.

5. Except as provided herein, a young adult inmate serving a sentence for a crime contained in Category E of N.J.A.C. 10A:71-3.3 shall serve eight additional months.

(c)-(e) (No change.)

(f) If a three-member Board panel or the Board establishes, in the case of an inmate sentenced pursuant to N.J.S.A. 2A:113-4 for a term of life imprisonment, N.J.S.A. 2A:164-17 for a fixed minimum and maximum term or N.J.S.A. 2C:1-1(b), a future parole eligibility date, which differs from the date required by the provisions of (a) and (c) above, the inmate shall be scheduled for an annual review hearing. The first annual review hearing shall be scheduled within 18 months from the month in which the decision to deny parole was rendered. Thereafter, annual review hearings shall be scheduled every 12 months until the inmate is within seven months of the actual parole eligibility date.

1.-4. (No change.)

5. (No change in text.)

(g)-(i) (No change.)

10A:71-3.26 Factors considered at quarterly reviews; juvenile inmates

(a) (No change.)

(b) The hearing officer, juvenile Board panel member, juvenile Board panel or Board shall consider the following factors and in addition may consider any other factors deemed relevant:

1.-21. (No change.)

22. Statement or testimony of any victim or the nearest relative(s) of a murder/manslaughter victim.

(c) (No change.)

10A:71-3.32 Juvenile Board panel case reviews

(a)-(d) (No change.)

(e) If the reviewing juvenile Board panel member concurs with the recommendation of the juvenile Board panel member, the determination shall be deemed to be the decision of the juvenile Board panel. The juvenile Board panel shall file a report pursuant to (h) below.

(f)-(j) (No change.)

#### 10A:71-3.41 Parole hearing procedures: county inmates

(a) The parole hearing provisions of N.J.A.C. 10A:71-3.13, except subsection (d), shall be applicable in the cases of county inmates.

(b) (No change.)

#### 10A:71-3.52 Interstate corrections compact and serving time out-of-State (s.t.o.s.) cases

(a)-(m) (No change.)

(n) If a three-member Board panel hearing is to be scheduled pursuant to N.J.A.C. 10A:71-3.21(d) for the purpose of establishing a future parole eligibility date, which differs from the provisions of N.J.A.C. 10A:71-3.21(a) or (b) and (c), the Board panel shall request the cooperation of the out-of-State or Federal institutional authority in arranging the conducting of the Board panel hearing by means of a teleconferencing system. If teleconferencing is not feasible or if the offender shall waive such a hearing, the three-member Board panel shall administratively review the offender's case. Pursuant to N.J.A.C. 10A:71-3.21(d)4 or 8, the offender shall be provided written notice of the reasons for the establishment of a future parole eligibility date that differs from the provisions of N.J.A.C. 10A:71-3.21(a) or (b) and (c).

(o)-(r) (No change.)

#### 10A:71-3.54 Rules of supervision for mandatory release cases

(a)-(n) (No change.)

(o) If an offender sentenced pursuant to N.J.S.A. 2C:43-7.2 is also sentenced to a special sentence of community supervision for life or parole supervision for life pursuant to N.J.S.A. 2C:43-6.4 and if the offender is released on parole by a Board panel or the Board prior to the expiration of the sentence of incarceration, the conditions of supervision shall include, in addition to those conditions established pursuant to N.J.A.C. 10A:7-6.4(a) and (i) and (e)2 above, the conditions as specified in N.J.A.C. 10A:71-6.11(b), (c), (e), (f) and (g) or 6.12(d), (e), (g), (h) and (i), as appropriate.

#### 10A:71-4.1 Appeals by inmates

(a)-(b) (No change.)

(c) Any conditions of parole or pre-parole requirements established by a Board member or a Board panel or affirmed by a Board panel pursuant to N.J.A.C. 10A:71-6.6 shall be appealable to the appropriate Board panel or the Board, respectively, provided one of the following criteria is met:

1.-4. (No change.)

(d) Any rescission of parole release date by a Board panel shall be appealable to the Board provided one of the following criteria is met:

1. The hearing officer or Board panel failed to consider material facts or failed to document that preponderance of the evidence indicates a substantial likelihood that the inmate will commit a crime if released on parole; that the inmate has failed to cooperate in his or her own rehabilitation; or that there is a reasonable expectation that the inmate will violate conditions of parole;

2.-4. (No change.)

(e)-(j) (No change.)

#### 10A:71-4.2 Appellate procedure

(a) All appeals submitted pursuant to N.J.A.C. 10A:71-4.1 shall be filed in writing and within \*[45]\* **\*90\*** days of written notice action or decision being received by the inmate and shall contain the reasons for the appeal and the criteria under which the appeal is submitted. An appeal submitted pursuant to N.J.A.C. 10A:71-4.1(i) (failure to provide timely Board panel hearing) shall include reference to the inmate's actual parole eligibility date as established by the Board's staff.

(b)-(f) (No change.)

#### 10A:71-5.1 Suspension of a parole release date

(a) The Board, the appropriate Board panel, the Chairperson or a designated representative may suspend a parole release date in accordance with the provisions of this subchapter. Any suspension of a parole release date shall act to prohibit the release of the inmate by the Department or Commission on the original parole release date unless such suspension is subsequently vacated.

(b)-(c) (No change.)

#### 10A:71-5.4 Pre-release conditions

(a) (No change.)

(b) Upon suspension of the parole release date, the Chairperson shall schedule a hearing before the Board or the appropriate Board panel to determine whether such pre-release condition should be amended or eliminated or whether the inmate should be denied parole.

#### 10A:71-5.5 Rescinding a parole release date

(a) The Board or the appropriate Board panel may rescind a parole release date at any time prior to such date if facts, circumstances or conditions are brought to the attention of the Board or the appropriate Board panel, which may indicate that parole release pursuant to N.J.S.A. 30:4-123.53 should not have been certified.

(b) It shall be the responsibility of the chief executive officer of the institution of incarceration to promptly provide the Board or the appropriate Board panel with any significant information not previously considered, which may be pertinent to the case of any inmate granted parole release, including, but not limited to, the details of any institutional infraction committed by such inmate.

#### 10A:71-5.6 Parole rescission hearing; scheduling

(a) Upon the receipt of additional relevant information that may form a basis for parole rescission, a rescission hearing shall be scheduled before the Board, the appropriate Board panel or a hearing officer.

(b) The purpose of the rescission hearing shall be to determine whether, due to circumstances of an institutional infraction committed by such inmate and/or due to circumstances of the inmate's case that were not previously considered, there is good cause for the Board or the appropriate Board panel to reconsider the prior determination certifying parole release.

(c) (No change.)

(d) If the inmate requests a postponement of the rescission hearing, the postponement shall be granted by the Board, the appropriate Board panel or the hearing officer. Such request shall be made in writing and shall be made a part of the inmate's case record.

(e) A rescission hearing may be conducted by videoconferencing. A record of the hearing shall be made pursuant to N.J.A.C. 10A:71-5.8(a).

#### 10A:71-5.7 Parole rescission hearing; notice of hearing

(a) Upon the initiation of the rescission hearing process, the inmate shall be provided with written notification of the reasons for the hearing, the purpose of the hearing and the information and material to be considered at the hearing, except information classified as confidential pursuant to N.J.A.C. 10A:71-2.1 or the rules of the Department or Commission.

(b)-(c) (No change.)

#### 10A:71-5.8 Parole rescission hearing; notice of decision

(a) The Board, Board panel or hearing officer shall record the rescission hearing by an electronic recording device. If the electronic recording device is not operational the hearing shall proceed only upon the inmate waiving the electronic recording of the hearing. The waiver shall be in writing and signed by the inmate and shall be made a part of the inmate's records. If the inmate does not wish to proceed without the electronic recording of the hearing, the hearing shall be rescheduled within 14 days.

(b) If the rescission hearing is conducted by a hearing officer, the hearing officer shall prepare a written summary of the rescission hearing.

1. Such hearing summary shall be forwarded to the Board or appropriate Board panel, and a copy of the summary shall be forwarded to the inmate's attorney or directly to the inmate where he or she has appeared pro se, in order that the inmate or his or her attorney may object or comment on the hearing summary by submitting written exceptions to the hearing summary. Such exceptions shall be forwarded to the Board or Board panel within 14 days after the receipt of the hearing summary. The provisions of N.J.A.C. 10A:71-2.1 shall be applicable to any hearing summary provided to the inmate.

2. Within 14 days after the receipt of the hearing summary and the written exceptions thereto, the Board or Board panel shall render a final decision as to rescission of parole.

3. The Board members shall not receive or consider any ex parte communications. The inmate's case shall be decided on the basis of the established record.

(c) The Board or Board panel shall notify the inmate and the Department or Commission in writing of its decision as to rescission of parole within 21 days after the disposition of the case.

(d) If the Board or Board panel rescinds parole, the written decision shall include in the case of an adult or young adult inmate any future parole eligibility date established pursuant to N.J.A.C. 10A:71-3.21.

### SUBCHAPTER 6. SUPERVISION

#### 10A:71-6.1 Administration

(a) Except as otherwise provided pursuant to the Interstate Compact for Adult Offender Supervision (N.J.S.A. 2A:168-26 et seq.), the Interstate Compact on Juveniles (N.J.S.A. 9:23-1 et seq.) or the Witness Security Reform Act (18 U.S.C. §§3521 et seq.), all adult and juvenile parolees released from an adult correctional facility shall at all times be under the supervision of the Division of Parole and juvenile parolees released from a juvenile correctional facility shall at all times be under the supervision of the Commission in accordance with the policies and rules of the Board.

(b)-(c) (No change.)

#### 10A:71-6.4 Conditions of parole

(a) The certificate of parole shall contain the following general conditions of parole:

1.-3. (No change.)

4. You are to immediately notify your parole officer upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or the provisions of a similar Federal or state statute, of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or



bail in a criminal matter or offense arising out of a domestic violence situation. You are to comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court.

5.-10. (No change.)

11. You are to refrain from behavior, which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or the provisions of a similar Federal or state statute.

12.-17. (No change.)

(b)-(d) (No change.)

(e) Based on the prior history of the inmate or information provided by a victim or a member of the family of a murder/manslaughter victim, the Board members certifying parole release may impose any other specific conditions of parole deemed reasonable in order to reduce the likelihood of recurrence of criminal or delinquent behavior. In addition, the Board members certifying parole release may, giving due regard to a victim's request, impose a special condition that the parolee have no contact with the victim, which special condition may include, but need not be limited to, restraining the parolee from entering the victim's residence, place of employment, business or school, and from harassing or stalking the victim or victim's relatives in any way.

(f)-(l) (No change.)

10A:71-6.11 Community supervision for life

(a) (No change.)

(b) The special sentence of community supervision for life shall commence pursuant to N.J.S.A. 2C:43-6.4(b) upon the completion of the sentence imposed pursuant to the Code of Criminal Justice, N.J.S.A. 2C:1-1 et seq. An offender serving a special sentence of community supervision for life shall be supervised by the Division of Parole as if on parole and subject to any special conditions established by the appropriate Board panel and to the following general conditions. The offender shall:

1.-3. (No change.)

4. Notify the assigned parole officer immediately upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or the provisions of a similar Federal or state statute, of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, and comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

5.-17. (No change.)

18. Refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or the provisions of a similar Federal or state statute;

19. (No change.)

20. Submit to a search conducted by a parole officer, without a warrant, of the offender's person, place of residence, vehicle or other real or personal property within the offender's control at any time a parole officer has a reasonable articulable basis to believe that the search will produce contraband or evidence that a condition of supervision has been violated, is being violated or is about to be violated and permit the confiscation of any contraband;

21. Pursuant to N.J.S.A. 30:4-123.88, the State Parole Board, on at least an annual basis, may administer a polygraph examination to all offenders serving a special sentence of community supervision for life. You shall submit to a polygraph examination as directed by the District Parole Supervisor; and

22. Refrain from using any computer and/or device to create any social networking profile or to access any social net-

working service or chat room in the offender's name or any other name for any reason unless expressly authorized by the district parole supervisor.

(c) If the victim(s) of an offense specified in (a) above is a minor, an offender serving a special sentence of community supervision for life shall, in addition to the conditions specified in (b) above, be subject to the following conditions. The offender shall:

1.-2. (No change.)

3. Refrain from residing with any minor without the prior approval of the district parole supervisor or designated representative.

(d) The following circumstances are deemed exceptions to the conditions specified in (c)1 and 2 above:

1. (No change.)

2. When the minor is in the physical presence of his or her parent or legal guardian (the offender may not be the parent or legal guardian);

3. When the offender is present in a public area, as long as the offender is not associating with a minor, and the public area is not one frequented mainly or exclusively by minors;

4. When the appropriate court may authorize contact with a minor; or

5. When the district parole supervisor or designated representative may authorize the offender to have contact with a minor.

(e) (No change.)

Recodify existing (g)-(o) as (f)-(n) (No change in text.)

10A:71-6.12 Parole supervision for life

(a)-(c) (No change.)

(d) An offender sentenced to a special sentence of parole supervision for life shall comply with the following:

1.-3. (No change.)

4. Notify the assigned parole officer immediately upon the issuance by the appropriate court, pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or under the provisions of a similar Federal or state statute, of an order granting emergency relief, a temporary or final restraining order or an order establishing conditions of release or bail in a criminal matter or offense arising out of a domestic violence situation, and comply with any condition established within the respective order until the order is dissolved by the appropriate court or until a condition is modified or discharged by the appropriate court;

5.-17. (No change.)

18. Refrain from behavior which results in the issuance of a final restraining order pursuant to the Prevention of Domestic Violence Act, N.J.S.A. 2C:25-17 et seq., or under the provisions of a similar Federal or state statute;

19.-21. (No change.)

22. Make payment to the Division of Parole of any assessment, fine, penalty or restitution imposed by the sentencing court;

23. Pursuant to N.J.S.A. 30:4-123.88, the State Parole Board, on at least an annual basis, may administer a polygraph examination to all offenders serving a special sentence of community supervision for life. You shall submit to a polygraph examination as directed by the District Parole Supervisor; and

24. Refrain from using any computer and/or device to create any social networking profile or to access any social networking service or chat room in the offender's name or any other name for any reason unless expressly authorized by the district parole supervisor.

(e) If the victim(s) of an offense specified in (a) above is a minor, an offender serving a special sentence of parole supervision for life shall, in addition to the conditions specified in (d) above, be subject to the following conditions. The offender shall:

1.-2. (No change.)

3. Refrain from residing with any minor without the prior approval of the district parole supervisor or designated representative.

(f) The following circumstances are deemed exceptions to the conditions specified in (e)1 and 2 above:

1. (No change.)

2. When the minor is in the physical presence of his or her parent or legal guardian (the offender may not be the parent or legal guardian);

3. When the offender is present in a public area, as long as the offender is not associating with a minor, and the public area is not one frequented mainly or exclusively by minors;

4. When the appropriate court may authorize contact with a minor; or

5. When the district parole supervisor or designated representative may authorize the offender to have contact with a minor.

(g) (No change.)

Recodify existing (i)-(w) as (h)-(v) (No change in text).

10A:71-7.17 Board panel action; schedule of future parole eligibility dates upon revocation of parole for inmates who have violated parole prior to October 17, 1994

(a) (No change.)

(b) Except as provided herein, upon revocation of parole, an adult inmate shall serve 12 months, a young adult inmate shall serve nine months, and a juvenile inmate shall serve six months, if the inmate has committed one of the following violations of parole:

1.-4. (No change.)

5. Failure to comply with any special condition of parole imposed pursuant to N.J.A.C. 10A:71-6.4(e) or (f).

(c)-(m) (No change.)

(n) A two-member Board panel may decrease, pursuant to (c), (e), (g)2 or (i) above, the future parole eligibility date required pursuant to (b), (d), (f), (g)1 or (h) above, or decrease pursuant to (k) above the future parole release date required pursuant to (j) above if the two-member Board panel determines that one or more of the following mitigating factors is present:

1.-5. (No change.)

6. The parolee has no previous convictions.

7. (No change.)

(o)-(t) (No change.)

10A:71-7.17A Board panel action; schedule of future parole eligibility dates upon revocation of parole for inmates who violated parole on or after October 17, 1994 and prior to December 4, 1995

(a)-(b) (No change.)

(c) Except as provided in this section, upon revocation of parole, a juvenile inmate shall serve six months, if the inmate has committed one of the following violations of parole:

1.-4. (No change.)

5. Failure to comply with any special condition of parole imposed pursuant to N.J.A.C. 10A:71-6.4(e) or (f).

(d)-(n) (No change.)

(o) A two-member Board panel may decrease, pursuant to (d), (f), (h)2 or (j) above, the future parole eligibility date required pursuant to (b), (c), (e), (g), (h)1 or (i) above, or decrease pursuant to (l) above, the future parole release date required pursuant to (k) above if the two-member Board panel determines that one or more of the following mitigating factors is present:

1.-7. (No change.)

(p)-(t) (No change.)

10A:71-7.17B Board panel action; schedule of future parole eligibility dates upon revocation of parole for inmates who violated parole on or after December 4, 1995

(a) This section applies to inmates who violated parole on or after December 4, 1995. After consideration of the hearing officer's hearing summary and opinion and any written exceptions thereto, a two-member Board panel shall determine whether to revoke parole pursuant to N.J.A.C. 10A:71-7.12. The Board panel members shall not receive or consider any ex parte communication. The parolee's case shall be decided on the basis of the established record.

1.-2. (No change.)

3. Except as provided in this section, if parole is revoked by the two-member Board panel and parole release is not certified pursuant to (a)2 above, an adult inmate shall serve 12 months, a young adult inmate shall serve nine months, and a juvenile inmate shall serve six months if the inmate has violated one of the following conditions of parole:

i.-v. (No change.)

vi. Failure to comply with any special condition of parole imposed pursuant to N.J.A.C. 10A:71-6.4(e) or (f).

(b)-(r) (No change.)

10A:71-7.19A Adult Diagnostic and Treatment Center examination for sex offenders; place of confinement; future parole eligibility

(a)-(k) (No change.)

(l) An inmate confined pursuant to (k)1 or 2 above shall be eligible for parole pursuant to the provisions of N.J.S.A. 30:4-123.45 et seq. However, a parole eligibility date established pursuant to N.J.A.C. 10A:71-7.17B or a future parole eligibility date established pursuant to N.J.A.C. 10A:71-3.21 shall not be reduced by commutation time for good behavior pursuant to N.J.S.A. 30:4-140 or credits for diligent application to work and other institutional assignments pursuant to N.J.S.A. 30:4-92.

(m)-(n) (No change.)

SUBCHAPTER 9. CERTIFICATE SUSPENDING CERTAIN EMPLOYMENT, OCCUPATIONAL DISABILITIES

## OF FORFEITURES

### 10A:71-9.3 Eligibility

(a)-(c) (No change.)

(d) Pursuant to N.J.S.A. 2A:168A-8(e), a qualified offender is eligible for relief under (c) above if he or she has remained without criminal involvement since his or her conviction, including that he or she has not subsequently been convicted of a crime, has no pending charges for any crime and there is no information presented that such a charge is imminent; and is applying for relief from a conviction other than:

1.-4. (No change.)

5. A crime enumerated in N.J.S.A. 43:1-3.1, committed by a public employee, which involves or touches upon the employee's office, position or employment, such that the crime was related directly to the person's performance in, or circumstances flowing from, the specific public office or employment held by the person;

6.-7. (No change.)

(e) (No change.)